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13 - Witness [redacted] - Homicide

14 - Witness [redacted] - Homicide

15 - Witness [redacted] - Homicide

16 - Witness Sergio Romo - Homicide

17 - Witness Richard Sherlock - Homicide

EXHIBITS

A **One (1) CD containing a scanned copy of the homicide investigation book, autopsy photos and photos of involved employees Deputies Ramon Chavez, Steven Marquez, Nathan Botten and Alexander Zambrano file # 016-10457-0534-038.**

B **Memorandum from the Los Angeles County District Attorney's Office Justice System Integrity Division to Captain Kent Wegener, dated February 11, 2020.**

C **One (1) CD containing 911 calls and radio traffic**

D **One (1) CD containing surveillance video**

MISCELLANEOUS DOCUMENTS

(11) Administrative Rights (Sworn & Non-Sworn) Forms

Executive Department State of California – Executive Order N-40-20

POST training records of involved employees Deputies Ramon Chavez, Steven Marquez, Nathan Botten and Alexander Zambrano

Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 016-10457-0534-038	Date: 09/13/2016	Time: 04:50	
Location: [redacted] Rosemead Boulevard	City or Station: San Gabriel (unincorporated)		
Bureau/Station/Facility: Temple Station	Admin. Investigation: ○ YES ◉ NO		
Type of Force: Control Holds, Take Down, Personal Weapons, Hobble			
Incident Category: ○1 ○2 ◉3	Deputy Injury: ◉ YES ○ NO	Suspect Injury ◉ YES ○ NO	
☒ Call ☐ Observation ☐ Detail	☐ Foot Pursuit ☐ Vehicle Pursuit		
IAB Notified: ◉YES ○ NO	Person Notified: Lt. Carrizosa	Emp: [redacted]	IAB Roll Out ◉ YES ○ NO

Involved Employee

E1

Employee #: [redacted]	Last Name: Chavez	First Name: Ramon	Middle I.:	Rank: B-1	
Sex: ◉ M ○ F	Race: H	Height: 5'11"	Weight: 210	Age: [redacted]	Shift: ◉ EM ○ Day ○ PM; ◉ Regular Shift ○ OT Shift ○ Off Duty
Unit of Assignment: Temple Sheriff's Station	Work Assignment (Unit #, Module, etc.): Unit 51				
Individual Force Used: Control holds, Take down, Personal weapons	○ Directed ○ Rescue ○ Medical Assist	Individual Category: ○1 ◉2 ○3			
☒ Injured ☒ Treated ☐ Admitted	Facility:	Coroner Case #:			

E2

Employee #: [redacted]	Last Name: Marquez	First Name: Steven	Middle I.: M.	Rank: Deputy	
Sex: ◉ M ○ F	Race: H	Height: 6'02"	Weight: 190	Age: [redacted]	Shift: ◉ EM ○ Day ○ PM; ◉ Regular Shift ○ OT Shift ○ Off Duty
Unit of Assignment: Temple Sheriff's Station	Work Assignment (Unit #, Module, etc.): Unit 51				
Individual Force Used: Control holds, Hobble	◉ Directed ○ Rescue ○ Medical Assist	Individual Category: ○1 ◉2 ○3			
☒ Injured ☒ Treated ☐ Admitted	Facility:	Coroner Case #:			

E3

Employee #: [redacted]	Last Name: Botten	First Name: Nathan	Middle I.: J.	Rank: Deputy	
Sex: ◉ M ○ F	Race: W	Height: 6' 07"	Weight: 300	Age: [redacted]	Shift: ◉ EM ○ Day ○ PM; ◉ Regular Shift ○ OT Shift ○ Off Duty
Unit of Assignment: Temple Sheriff's Station	Work Assignment (Unit #, Module, etc.): Unit 55				
Individual Force Used: Control Holds	○ Directed ○ Rescue ○ Medical Assist	Individual Category: ○1 ◉2 ○3			
☒ Injured ☒ Treated ☐ Admitted	Facility:	Coroner Case #:			

On Duty Supervisor ☒ Additional Involved Employees

Emp #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Serpa	Jeffrey	A.	SGT	YES ◉ NO ○	YES ◉ NO ○

Supervisor Completing Investigation

Emp #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Grubb	Benjamin	C.	SGT	YES ○ NO ◉	YES ○ NO ◉

Watch Commander / Supervising Lieutenant

Emp #	Last Name	First Name	Middle I.	Rank
[redacted]	Grall	David	M.	LT

Watch Commander / Supervising Lieutenant's **Signature:** [signature] Date: 12/15/2020

Copy Provided to Employee by: Emp #:

William Jaeger
Unit Commander **(Print Name)**

Unit Commander's **Signature:** [signature] [redacted] Emp #: 1/5/21 Date

DISCOVERY Use Only
FO#

☐ PPI REVIEW COMPLETED

Original: Discovery Unit
Copy: Unit Commander

SH-R-438P (Rev. 01/13)

Supervisor's Report on Use of Force
SUSPECT INFORMATION

016 - 10457 - 0534 - 038

Suspect Information

S 1

Last Name: McMillan | First Name: Timothy | Middle Name: Shannon | Armed? Select: Not Armed

AKA Last Name: | First Name: | Middle Name:

Sex: (●) Male ( ) Female | Race: W | Age: 38 | Height: 5'09" | Weight: 282 | D.O.B: 08/16/78 | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: [redacted] | City: [redacted] | State & Zip Code: [redacted]

Booking #: Not Booked | Primary Charge Code: 215 PC | Secondary Charge Code: 243(c)(1) PC | [redacted] Criminal History

Treated on Scene? (●) YES ( ) NO | Name: LACOFD | Unit: Engine 5 | Phone #: (626) 287-9472

Hospital Admission? ☐ | Rec'd Treatment At: | Coroner Case #: 2016-0668 | Mental History [redacted]ser's guide provides [redacted]rection on this entry

By: | Address: | Phone #:

Under Influence: ( ) YES (●) NO | Substance: None | 5150 a factor in force? (●) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: | Time: | ☐ Audiotape: | ☐ Videotape: | ☐ Photos of Injuries: | ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S_

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | ☐ Criminal History

Treated on Scene? ( ) YES ( ) NO | By: | Unit: | Phone #:

Hospital Admission? ☐ | Rec'd Treatment At: | Coroner Case #: | Mental History ☐ User's guide provides direction on this entry

By: | Address: | Phone #:

Under Influence: ( ) YES ( ) NO | Substance: | 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: | Time: | ☐ Audiotape: | ☐ Videotape: | ☐ Photos of Injuries: | ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S_

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | ☐ Criminal History

Treated on Scene? ( ) YES ( ) NO | By: | Unit: | Phone #:

Hospital Admission? ☐ | Rec'd Treatment At: | Coroner Case #: | Mental History ☐ User's guide provides direction on this entry

By: | Address: | Phone #:

Under Influence: ( ) YES ( ) NO | Substance: | 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: | Time: | ☐ Audiotape: | ☐ Videotape: | ☐ Photos of Injuries: | ☐ ADMITS HEARING ANNOUNCEMENTS

☐ **Additional Suspects Involved**

Supervisor's Report on Use of Force
EMPLOYEE / NON-EMPLOYEE INFORMATION

0 1 6 - 1 0 4 5 7 - 0 5 3 4 - 0 3 8

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Messerschmidt	Curt	A.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	Unit 50S	◉ EM ○ Day ○ PM	◉ Regular ○ OT ○ Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	Ruiz	Rafael	C.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	52T1	◉ EM ○ Day ○ PM	◉ Regular ○ OT ○ Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	Gonzalez	Eric	NMN

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	Unit 53A	◉ EM ○ Day PM	◉ Regular ○ OT ○ Off Duty

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		[redacted]	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]		[redacted]	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	

Last Name	First Name	Middle Name	Age	D.O.B.
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Street Address	City	Zip Code	Phone #1	Phone #2
[redacted]	[redacted]	[redacted]	[redacted]	

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

☐ **Additional Witness**

Supervisor's Report on Use of Force
INVOLVED EMPLOYEE - Continuation

016 - 10457 - 0534 - 038

Involved Employee

E4

Employee #	Last Name	First Name	Middle I.	Rank
[redacted]	Zambrano	Alexander	NMN	Deputy

Sex	Race	Height	Weight	Age	Shift	
◉ M ○ F	H	5'11"	215	[redacted]	◉ EM ○ Day ○ PM	◉ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment: Temple Station

Work Assignment (Unit #, Module, etc.): Unit 53 T1

Individual Force Used: Control holds

○ Directed ○ Rescue ○ Medical Assist

Individual Category: ◉ 1 ○ 2 ○ 3

☒ Injured ☒ Treated ☐ Admitted Facility: ______

Coroner Case #

E_

Employee #	Last Name	First Name	Middle I.	Rank

Sex	Race	Height	Weight	Age	Shift	
○ M ○ F					○ EM ○ Day ○ PM	○ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment:

Work Assignment (Unit #, Module, etc.):

Individual Force Used:

○ Directed ○ Rescue ○ Medical Assist

Individual Category: ○ 1 ○ 2 ○ 3

☐ Injured ☐ Treated ☐ Admitted Facility: ______

Coroner Case #

E_

Employee #	Last Name	First Name	Middle I.	Rank

Sex	Race	Height	Weight	Age	Shift	
○ M ○ F					○ EM ○ Day ○ PM	○ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment:

Work Assignment (Unit #, Module, etc.):

Individual Force Used:

○ Directed ○ Rescue ○ Medical Assist

Individual Category: ○ 1 ○ 2 ○ 3

☐ Injured ☐ Treated ☐ Admitted Facility: ______

Coroner Case #

E_

Employee #	Last Name	First Name	Middle I.	Rank

Sex	Race	Height	Weight	Age	Shift	
○ M ○ F					○ EM ○ Day ○ PM	○ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment:

Work Assignment (Unit #, Module, etc.):

Individual Force Used:

○ Directed ○ Rescue ○ Medical Assist

Individual Category: ○ 1 ○ 2 ○ 3

☐ Injured ☐ Treated ☐ Admitted Facility: ______

Coroner Case #

E_

Employee #	Last Name	First Name	Middle I.	Rank

Sex	Race	Height	Weight	Age	Shift	
○ M ○ F					○ EM ○ Day ○ PM	○ Regular Shift ○ OT Shift ○ Off Duty

Unit of Assignment:

Work Assignment (Unit #, Module, etc.):

Individual Force Used:

○ Directed ○ Rescue ○ Medical Assist

Individual Category: ○ 1 ○ 2 ○ 3

☐ Injured ☐ Treated ☐ Admitted Facility: ______

Coroner Case #

Supervisor's Report on Use of Force
EMPLOYEE / NON-EMPLOYEE INFORMATION - Continuation

016 - 10457 - 0534 - 038

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Flores	Christopher	S.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	56A	(•) EM ( ) Day ( ) PM	(•) Regular ( ) OT ( ) Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	Bui	Francis	Q.

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Temple Station	57A	(•) EM ( ) Day ( ) PM	(•) Regular ( ) OT ( ) Off Duty

Emp. #	Last Name	First Name	Middle Name
[redacted]	[redacted]	[redacted]	

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
[redacted]	[redacted]	(•) EM ( ) Day ( ) PM	(•) Regular ( ) OT ( ) Off Duty

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Supervisor's Report on Use of Force

016 - 10457 - 0534 - 038

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(RO) Restraint Device (Other)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(IR) Less Lethal Impact Round (other)
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative
(HR) High Risk

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Involved

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
McMillan, Timothy	S1	Chavez, Ramon	E1	PH	NN	AD
Chavez, Ramon	E1	McMillan, Timothy	S1	CT	NN	CH
McMillan, Timothy	S1	Chavez, Ramon	E1	RS	NN	HD
Chavez, Ramon	E1	McMillan, Timothy	S1	TD	NN	SH
McMillan, Timothy	S1	Botten, Nathan	E2	RS	AB	HD
Botten, Nathan	E2	McMillan, Timothy	S1	CT	NN	AR
McMillan, Timothy	S1	Zambrano, Alexander	E4	RS	BR	EL
Zambrano, Alexander	E4	McMillan, Timothy	S1	CT	NN	WR
McMillan, Timothy	S1	Marquez, Steven	E3	PK	BR	KN
Marquez, Steven	E3	McMillan, Timothy	S1	CT	NN	FE
McMillan, Timothy	S1	Marquez, Steven	E3	PK	CP	KN
Marquez, Steven	E3	McMillan, Timothy	S1	CT	NN	FE
Chavez, Ramon	E1	McMillan, Timothy	S1	PH	NN	FA
McMillan, Timothy	S1	Botten, Nathan	E2	RS	AB	HD
Botten, Nathan	E2	McMillan, Timothy	S1	CT	NN	WR
McMillan, Timothy	S1	Zambrano, Alexander	E4	RS	AB	HD
Zambrano, Alexander	E4	McMillan, Timothy	S1	CT	NN	WR
UNKNOWN		McMillan, Timothy	S1		DH	

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

INCIDENT:	**Category 3 Use of Force / In-Custody Death**
IAB FILE NUMBER:	**FO 2412249**
URN:	**016-10457-0534-038**
DATE/TIME:	**September 13, 2016 / 0450 hours**
LOCATION:	**6910 Rosemead Boulevard,**
	San Gabriel, California 91775

SYNOPSIS:

On Tuesday, September 13, 2016, Internal Affairs Bureau (IAB) Sergeants John Adams, [redacted] and Lieutenant Slade Carrizosa responded to Temple Station regarding an in-custody death following a use of force.

IAB investigators learned the involved deputies utilized control holds, personal weapons, and a takedown on Suspect Timothy McMillan. After the suspect was taken down, he assaulted and resisted deputies' efforts to handcuff him. The suspect was handcuffed, hobbled, and positioned on his side. The suspect initially exhibited labored breathing, and paramedics were summoned. The suspect became motionless as paramedics arrived. Emergency medical personnel attempted to resuscitate the suspect by preforming cardiopulmonary resuscitation (CPR). The suspect was pronounced deceased at the scene.

Los Angeles County Sheriff's Department (LASD) Homicide Sergeant Karen Shonka and Detective Wayne Holston arrived and assumed control of the death investigation. For further information refer to the Homicide case book, under URN #016-10457-0534-038 **[EXHIBIT A - Homicide Book]**.

DISTRICT ATTORNEY'S LETTER OF OPINION

The incident was reviewed by the Los Angeles County District Attorney's Office, Justice System Integrity Division (JSID). In the letter of opinion **[EXHIBIT B]**, dated February 11, 2020, Deputy District Attorney Shannon Presby concluded Deputies Ramon Chavez, Steven Marquez, Nathan Botten and Alexander Zambrano acted lawfully and were not criminally responsible for Suspect Timothy McMillan's death. The file was closed, and no further action would be taken.

SUMMARY

On September 13, 2016, at approximately 0423 hours, Temple Station received an emergency 9-1-1 call from a city of Rosemead parking control officer, Witness Francis Alcala **[EXHIBIT C - 911 Calls, audio file #1]**. Witness Alcala was assaulted by a male white adult, who was later identified as the suspect, at [redacted] Garvey Avenue in Rosemead. The suspect stole her city parking enforcement vehicle. An LASD portable radio was also inside of the vehicle. Temple Station desk personnel requested deputies to respond to Witness Alcala's location **[EXHIBIT C - Radio Traffic, audio file #1]**.

As Witness Alcala spoke to the Temple Station dispatcher, the suspect was heard on Temple Station's Local Tactical Radio Channel (L-Tac 12). The suspect stated, "Meter maid dead." **[EXHIBIT C – Radio Traffic, audio file #1, audio mark 00:59-01:04]**.

A "carjacking just occurred" call was generated and dispatched by Temple Station desk personnel. It was assigned to Unit 53, Deputies Ricky Gutierrez and Steven Comfort, via Mobile Data Computer (MDC) under Temple Station Incident #TEM16257-0040 **[EXHIBIT A - Homicide Book, page 41]**.

Deputies Gutierrez and Comfort responded to the location on Garvey Avenue in Rosemead and spoke to Witness Alcala, who provided them additional details. Witness Alcala was on-duty as a uniformed city of Rosemead Parking Enforcement Officer. She drove a marked silver Honda Civic Parking Enforcement Vehicle with decals which displayed "City of Rosemead" on the doors and bumpers. She positioned her vehicle behind an illegally parked vehicle at [redacted] Garvey Avenue. She made contact with the suspect, who was seated on the curb next to the rear of the illegally parked vehicle. The suspect denied ownership of the vehicle, and Witness Alcala began to write a citation.

The suspect stood up and confronted Witness Alcala. He shouted, "Why are you giving him a ticket? You're not an f-ing cop. You're not even a real cop." **[Witness Alcala's Homicide transcript, page 1]**. The suspect advanced toward Witness Alcala, and did not comply when she ordered him to stop. She retreated to her vehicle to escape the suspect and to access her LASD portable radio inside the vehicle. The suspect followed her. Witness Alcala opened the driver's side door of her vehicle, but the suspect slammed the door shut before she could get inside. She turned her back to the suspect to go around to the passenger door of her vehicle. The suspect followed Witness Alcala and punched her in the back of the head. Witness Alcala fell to the ground and saw the suspect enter her vehicle and drove away.

A "Carjacking Just Occurred" crime broadcast was voiced over the Sheriff's Communication Center (SCC) radio frequency by Deputy Comfort. The broadcast included the carjacking offense, descriptions of the suspect, and the

stolen vehicle description **[EXHIBIT C - Radio Traffic, audio file #5]**. Deputies Gutierrez and Comfort completed a carjacking report under URN #016-10457-0534-038 **[EXHIBIT A - Homicide Book, page 1]**.

Temple Station deputies searched the vicinity and attempted to locate the vehicle and the suspect. Approximately 20 minutes later, at 4:42 AM, Witness [redacted] called Temple Station dispatch. Witness [redacted] was the [redacted] of a McDonald's restaurant located at [redacted] in unincorporated [redacted] She reported a man had created a disturbance at her restaurant **[EXHIBIT C - 911 Calls, audio file # 2]**. The male white who caused the disturbance matched the suspect's description and arrived in a vehicle which matched the description of Witness Alcala's marked vehicle.

SCC broadcasted the carjacking suspect was at the McDonald's restaurant **[EXHIBIT C - Radio Traffic, audio file #7]**. Numerous Temple Station units responded Code-3 (emergency lights and sirens) to the location. Based on the fact the suspect possessed an LASD radio, the radio coordination between responding deputies was limited.

Deputies Ramon Chavez and Steven Marquez, Unit 51, were the first to arrive. Through the glass windows of the restaurant, customers "flagged them down" and pointed to an area further inside the restaurant **[Deputy Chavez' Homicide transcript, page 7]**. The deputies entered the restaurant.

Deputies Chavez and Marquez located the suspect sitting at a booth in the northwest dining area of the restaurant.

Contact between deputies and the suspect was captured on McDonald's restaurant surveillance cameras. The surveillance video was submitted along with this investigation as **[EXHIBIT D]**.

They deputies drew their firearms, approached the suspect and broadcasted they were "Detaining the suspect" **[EXHIBIT C – Radio Traffic, audio file #11]**. Sergeant Jeffrey Serpa, Unit 51S, arrived and supervised the incident.

Additional deputies arrived, and Deputy Marquez holstered his firearm and transitioned to his Taser. Deputies Chavez and Marquez ordered the suspect to show his hands and stand up. The suspect complied, stood up, and showed his hands. Deputy Chavez holstered his weapon so he could handcuff the suspect. Deputy Chavez ordered the suspect to turn around and to place his hands behind his back. Deputy Nathan Botten arrived and stood to the right of Deputy Chavez.

The suspect bladed his body sideways to his left (counterclockwise), with his right shoulder toward the deputies, and squeezed between the tables. The

suspect walked toward Deputy Chavez and gestured his hands in a "karate chop" manner **[Deputy Chavez' Homicide transcript, pages 10 and 19]**.

The suspect's arm gestures were captured on video **[EXHIBIT D - Surveillance Video Camera 5, video mark 16:48]**. Deputy Chavez thought he was going to be attacked by the suspect. The suspect brushed past Deputy Chavez and turned toward Deputy Botten. Deputies Chavez and Botten, independently thought the suspect was going to assault Deputy Botten, or escape from deputies **[Deputy Botten's Homicide transcript, page 5, Deputy Chavez Homicide transcript, page 11]**.

Deputy Botten grabbed the suspect's left wrist, as Deputy Chavez grabbed the suspect's shirt from behind. Deputy Chavez placed both of his arms around the suspect's upper body. The suspect grasped and pulled Deputy Chavez' right arm down.

Deputy Chavez placed his arms around the suspect's shoulder and neck area, and spun the suspect's body in a clockwise manner. The suspect and Deputy Chavez fell to the floor **[EXHIBIT D - Surveillance Video Camera 5, video mark 16:56]**.

The suspect landed with his chest and stomach to the floor, with his arms bent underneath his body. Deputy Chavez' right arm was pinned under the suspect's chest and neck area. Deputy Chavez was positioned near the suspect's upper torso and tried to free his pinned right arm.

The suspect did not comply when ordered to place his hands behind his back, and pulled his arms back underneath his body. Deputy Alex Zambrano arrived, grabbed the suspect's right wrist, and attempted to place it behind his back. Deputy Botten was positioned on the suspect's back. Deputy Botten straddled the suspect's lower back with both of his knees on the floor, and used his body weight to hold the suspect down. Deputy Botten also used his hands to grasp the suspect's left arm and attempted to place it behind the suspect's back.

Deputy Marquez used his hands to hold the suspect's legs and feet to the floor. The suspect's right foot broke free of Deputy Marquez' grasp and the suspect kicked Deputy Marquez's right knee. Deputy Marquez grasped the suspect's right foot and held it to prevent the suspect from kicking him again. Deputy Marquez ordered the suspect to stop kicking. The suspect's left foot broke free from Deputy Marquez' grasp and the suspect kicked Deputy Marquez's left knee **[Deputy Marquez' Homicide transcript, page 9]**. Deputy Marquez used his hands and bodyweight to control the suspect's legs, feet, and stopped their movement.

Deputy Chavez heard the suspect had kicked Deputy Marquez. In order to stop the suspect from kicking Deputy Marquez, Deputy Chavez punched the suspect

in the face three to four times as he told the suspect to "stop fighting" **[Deputy Chavez' Homicide transcript, pages 14 and 23 and Deputy Chavez' IAB transcript, pages 16-19]**.

Deputy Zambrano placed the suspect's right arm behind his back as Deputy Botten placed the suspect's left arm behind his back. The suspect stopped struggling. Deputy Eric Gonzalez arrived and reached in between the deputies and handcuffed the suspect's wrists together.

Sergeant Serpa directed deputies to place a hobble restraint device on the suspect's feet to protect deputies from being kicked.

IAB Note: A hobble is a restraint device. A person is considered hobbled when they are handcuffed, their ankles are held together with a hobble restraint device, and the clip end of that device is not connected to the handcuffs.

Deputy Marquez secured a hobble on the suspect's legs. The suspect was placed on his side, with his right shoulder to the floor side to assist breathing. As he was turned to his side, deputies saw blood on the suspect's face and on the floor. Deputies monitored the suspect's vital signs **[Sergeant Messerschmidt's Homicide transcript, page 6]**. Sergeant Serpa saw the suspect taken down and requested emergency medical response over the radio **[EXHIBIT C - Radio Traffic, audio file #14]**.

The suspect's eyes were closed, and he was breathing in a manner that sounded like he was snoring. The suspect cleared his throat as if he was going to spit **[Sergeant Serpa's IAB transcript, page 8]**. Sergeant Serpa directed deputies to place a spit mask on the suspect.

Deputies [redacted] and Francis Bui arrived. They attempted to place a spit mask on the suspect, as directed by Sergeant Serpa. The mask was too small to fit the suspect's head, and the attempt to secure it was abandoned. Deputy Bui was positioned near the suspect's head as he monitored the suspect. Deputies waited for fire department personnel to arrive to medically evaluate the suspect. The suspect was conscious and breathing. "He was breathing heavily, from the struggle, making weird noises. I could see his chest, stomach rise and fall" **[Deputy Gonzalez' IAB transcript, page 8]**.

Deputy Bui noticed the suspect had become motionless. Deputy Bui placed two fingers on the suspect's neck area, but he was unable to locate a pulse. Deputy Bui was unsure if he had his fingers in the correct position **[Deputy Bui's IAB transcript, page 7]**. The moment Deputy Bui realized he was unable to find a pulse, Los Angeles County Fire Department (LACOFD) personnel arrived on scene. Deputies relinquished control of the suspect to the LACOFD in order to

conduct a medical evaluation. The handcuffs were removed from the suspect, and he was laid on his back.

LACOFD performed CPR for approximately 20 minutes and determined the suspect was deceased.

Once the suspect was deceased, deputies secured the scene, identified and arranged for the transportation of witnesses, and waited for Homicide investigators.

911 Calls

IAB investigators reviewed two audio files containing 9-1-1 calls to Temple Sheriff's Station regarding this incident. The following are summarized excerpts from the calls **[EXHIBIT C - 911 Calls]:**

Actual Time	Audio File No.	Description
04:22	1	Witness Alcala reported a carjacking and requested deputies.
04:42	2	Witness [redacted] reported the suspect created a disturbance at McDonalds.

RADIO TRAFFIC

IAB investigators reviewed 16 audio files containing radio traffic the incident, including Temple Station designated frequencies Dispatch 11 and L-TAC 12. The following are summarized excerpts from the compiled radio traffic **[EXHIBIT C - Radio Traffic]:**

Actual Time	Audio File No.	Description
04:23	1	Temple dispatch advised Rosemead units to respond to a carjacking. Suspect heard on radio frequency.
04:27	4	Temple dispatch advised a radio was in stolen car, and to keep radio traffic minimal and covert.
04:30	5	Deputy Comfort transmitted carjacking crime broadcast.

04:45	7	SCC advised the carjacking vehicle was seen at McDonald's in San Gabriel.
04:50	11	Deputy Marquez advised they were detaining the suspect.
04:51	12	Sergeant Serpa advised suspect detained at gunpoint. Deputies heard ordering suspect to turn around.
04:53	14	Sergeant Serpa requested emergency medical aid to respond.
04:55	16	Sergeant Serpa advised code 4, still awaiting emergency medical personnel.

SURVEILLANCE VIDEO

Portions of this incident were captured on three surveillance cameras inside and outside of the location. The video files are listed by camera number and video time mark, and not by the actual time of occurrence. Camera 1 video was recorded from an exterior camera directed toward the parking lot south of the location. Camera 5 video was recorded from an interior camera directed toward the northwest seating area of the restaurant, and captured the encounter between deputies and the suspect. Camera 8 video was recorded from an interior camera directed toward the front counter area only.

The video was placed on a compact disc **[EXHIBIT D - Surveillance Video]**. The following are highlighted excerpts from the compiled video footage:

Camera Number	Video Mark	Description
1 (parking lot camera)	04:14	Suspect arrived at McDonald's restaurant, parked vehicle and entered.
8 (counter camera)	04:37	Suspect approached the counter.
8 (counter camera)	05:51	Suspect took cookies from display case and exited restaurant.
8 (counter camera)	09:44	Witness [redacted] handed cell phone to Witness [redacted]
5 (dining area camera)	15:36	Suspect sat at table in northwest corner of restaurant and ate.

1 (parking lot camera)	15:30	Deputies Chavez and Marquez arrived at restaurant and illuminated the parked suspect vehicle.
5 (dining area camera)	16:05	Deputies Chavez and Marquez entered dining area and approached suspect.
5 (dining area camera)	16:34	Suspect stood and turned his back toward deputies.
5 (dining area camera)	16:48	Suspect swung his arms and advanced toward Deputies Chavez, Marquez, and Botten.
5 (dining area camera)	16:56	Deputies Chavez and Botten took suspect to the floor.
5 (dining area camera)	18:37	Deputy Marquez secured hobble restraint on suspect's legs.
5 (dining area camera)	18:58	Deputy Botten stood up, and deputies rolled the suspect to his side.
5 (dining area camera)	21:12	Deputy Bui attempted to place a spit mask on suspect.
5 (dining area camera)	23:23	LACOFD Engine 5 arrived.
5 (dining area camera)	26:43	LACOFD began chest compressions.
5 (dining area camera)	38:43	IV placed on suspect.
5 (dining area camera)	48:07	Lifesaving efforts ceased, medical personnel gathered equipment.

INVOLVED EMPLOYEE AND WORK HISTORY

Ramon Chavez, Deputy Sheriff, #[redacted]
5'11", 210 lbs.
East Patrol Division
Temple Station (TEM)

Work History

Date of Employment:	February 15, 2004
Date Assigned to TEM Station:	August 3, 2008
Date Completed Patrol Training:	[redacted]

Prior Shooting incident(s): [redacted]
Prior Founded Force Incidents:

Equipment Worn On Person

Oleoresin Capsicum (OC) Spray
Key holder
Two magazine pouches with magazines
Extra magazine case
Pocketknife
Radio holder
Two handcuff cases
Large flashlight
Small flashlight
Smith & Wesson M&P 9MM
Baton ring holder
Smith & Wesson .38 caliber firearm

Steven Marquez, Deputy Sheriff, #[redacted]
6'2", 190 lbs.
East Patrol Division
Temple Station (TEM)

Work History

Date of Employment: November 11, 2012
Date Assigned to TEM Station: June 5, 2016
Date Completed Patrol Training: [redacted]
Prior Shooting incident(s): [redacted]
Prior Founded Force Incidents: [redacted]

Equipment Worn On Person
Oleoresin Capsicum (OC) Spray
Key ring
Two magazine pouches with magazines
Expandable Baton (ASP)
Radio
Two handcuff cases
Smith and Wesson M&P
Flashlight
Hobble device

Nathan Botten, Deputy Sheriff, #[redacted]
6'7", 300 lbs.
East Patrol Division
Temple Station (TEM)

Work History

Date of Employment:	June 27, 2007
Date Assigned to TEM Station:	November 16, 2014
Date Completed Patrol Training:	[redacted]
Prior Shooting incident(s):	
Prior Founded Force Incidents:	

Equipment Worn On Person

Oleoresin Capsicum (OC) Spray
Key ring
SAP
Flashlight
Four magazine pouches with magazines
Expandable Baton (ASP)
2 Knives
Radio
Two handcuff cases
Beretta 92F 9MM
Hobble device
Drop holster containing X-26 Taser

Alexander Zambrano, Deputy Sheriff, #[redacted]
East Patrol Division
5'11" 215 lbs
Temple Station (TEM)

Work History

Date of Employment:	February 5, 2007
Date Assigned to TEM Station:	November 10, 2013
Date Completed Patrol Training:	[redacted]
Prior Shooting incident(s):	
Prior Founded Force Incidents:	

Equipment Worn On Person

Oleoresin Capsicum (OC) Spray
Keys
Two handcuff cases
Large flashlight
Small flashlight

Two magazine pouches with magazines
Expandable Baton (ASP)
Radio
Leatherman tool
Taser
Beretta 92F 9MM
38 caliber firearm

SUSPECT INFORMATION

Timothy Shannon McMillan
Male, White, DOB: August 16, 1978, 5'10"; 255 pounds
[redacted]
FBI #[redacted] CII #[redacted]

The Consolidated Criminal History Reporting System (CCHRS) revealed Suspect McMillan had [redacted] Suspect McMillan's Consolidated Criminal History Report is included in the Homicide Bureau casebook **[EXHIBIT A – Homicide Book, pages 184 - 188]**.

SUSPECT'S INJURIES

The Los Angeles County Department of Medical Examiner-Coroner ascribed the cause of the suspect's death to be cardiopulmonary arrest during law enforcement prone restraint due to schizoaffective disorder and hypertension **[EXHIBIT A – Homicide Book, page 189]**.

DEPUTY PERSONNEL INJURIES

Deputy Chavez sustained soreness to the knuckles on his right hand. Deputy Marquez sustained bruises to his right knee. Deputy Botten sustained scratches to his right hand. Deputy Zambrano sustained scratches and a bruise to his left elbow. Deputy Zambrano also sustained scratches and redness to his right wrist. Digital photographs were obtained from Homicide Bureau which included images depicting the deputies' injuries. The deputies were not treated on scene, but they opted to self-care their injuries. The digital photographs were placed on a compact disc **[Exhibit A - Digital Photographs]**.

PHYSICAL EVIDENCE

All physical evidence located at the scene was identified and collected by Forensic Identification Specialists David Alonso #[redacted] Teresa Romo #[redacted] and Jane Mak #[redacted] assigned to Scientific Services Bureau under the direction of Homicide Investigators **[EXHIBIT A - Homicide Book, pages 53-58]**.

INVESTIGATOR'S OBSERVATIONS

IAB Investigators arrived approximately four hours after the incident occurred. The crime scene was described in detail by Homicide investigators **[EXHIBIT A - Homicide Book, pages 54 - 58]** and documented by LASD Crime Lab Personnel **[EXHIBIT A - Homicide Book, pages 176 -183]**. The crime scene was also photographed **[Exhibit A - Digital Photographs]** by LASD Scientific Services Bureau Personnel.

PROPERTY DAMAGE

None.

LIGHTING AND WEATHER CONDITIONS

The incident occurred inside the McDonald's restaurant dining area. The area was illuminated by fluorescent lights affixed to the ceiling.

STATEMENTS

The following interviews were recorded and transcribed. For more information and precise wording, see the attached verbatim interview transcriptions. The following narrative contains summaries of each interview.

INVOLVED PERSONNEL

Deputy Ramon Chavez

On September 13th, 2016, Homicide Detectives Karen Shonka and Wayne Holston interviewed Deputy Ramon Chavez. Attorney Amanda Waters from the Law Offices of Green & Shinee represented Deputy Chavez. On October 1, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Chavez. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Chavez.

On September 13, 2016, Deputy Chavez was assigned to Temple Station as a [redacted] with his partner, Deputy Steven Marquez, on early morning shift. They responded to a call for service in the city of Rosemead regarding a city worker who was the victim of a carjacking, Temple Station Incident number TEM16257-0040 **[EXHIBIT A – Homicide Book, page 41]**. Deputy Chavez heard what he believed was the suspect's voice on the radio say "Meter maid dead" shortly after the call for service was dispatched **[Deputy Chavez' Homicide transcript, page 5]**. They learned the suspect had access to an LASD portable radio left inside of the carjacked vehicle.

Deputies Chavez and Marquez searched for the suspect and received an update the suspect was at the McDonald's on [redacted] and [redacted] in [redacted] **[EXHIBIT C - Radio Traffic, audio file # 7]**.

They responded, and were the first LASD unit to arrive at the McDonald's restaurant. Deputies Chavez and Marquez were "flagged down" by customers standing near the entrance to the McDonald's. The customers pointed toward the back of the restaurant which indicated to Deputy Chavez that the suspect was inside **[Deputy Chavez' Homicide transcript, page 7]**.

Deputies Chavez and Marquez devised a tactical plan and entered the restaurant. The deputies located the suspect seated on a bench in the northwest section of the dining area. As they approached, Deputy Chavez held the suspect at gunpoint, and Deputy Marquez pointed his Taser at the suspect. The suspect was seated as he ate food near a nylon cooler on the table.

Deputy Chavez ordered the suspect to show his hands, which he complied. The suspect stood up, turned his body sideways to his left (counterclockwise), and squeezed between the two restaurant tables. Deputy Chavez ordered the suspect to turn around and to place his hands behind his back.

The suspect placed the food from his right hand into his mouth and began to turn his body counterclockwise. The suspect complied, and Deputy Chavez holstered his firearm in preparation to handcuff the suspect. The suspect gestured with his open hands in a "karate chops" manner and moved toward Deputy Chavez **[Deputy Chavez' Homicide transcript, pages 10 and 19]**.

The suspect turned toward Deputy Botten at a quick pace. Deputy Chavez thought the suspect was either going to assault Deputy Botten, or escape from deputies. Deputy Chavez grabbed the back of the suspect's shirt and placed his left and right arms around the suspect's upper body. The suspect grasped Deputy Chavez' right arm and pulled it down **[Deputy Chavez' IAB transcript, pages 7-8]**.

Deputy Chavez grabbed the suspect's left shoulder and neck area. He twisted the suspect's body clockwise and took him to the floor. During the takedown, Deputy Chavez lost his grip on the suspect as they both fell to the floor. The suspect landed on the floor facing chest down, with Deputy Chavez' right arm stuck underneath the suspect's chest and neck area.

Other deputies attempted to control the suspect's arms and legs. Deputy Chavez was on the floor positioned with his back toward Deputies Marquez and Botten. This position prevented him from viewing the other deputy's actions. Deputy Chavez faced the suspect's head and tried to free his arm pinned underneath the suspect. Deputy Marquez felt the suspect struggle with deputies

and heard Deputy Marquez order the suspect to stop kicking **[Deputy Chavez' IAB transcript, page 16]**.

Deputy Chavez feared the suspect had kicked Deputy Marquez. Deputy Chavez' bicep was still pinned under the suspect's neck, but he was able to bend his elbow, and he struck the suspect's face with his fist. Deputy Chavez punched the suspect's face three to four times while he told the suspect to stop fighting **[Deputy Chavez' Homicide transcript, pages 14 and 23 and Deputy Chavez' IAB transcript, pages 16-19]**. Due to the limited range of arm movement available to Deputy Chavez, he did not acquire substantial momentum behind the punches **[Deputy Chavez' IAB transcript, page 18]**.
The suspect stopped struggling, and Deputy Chavez noticed blood on the suspect's nose and saw a pool of blood on the floor. Deputy Chavez stood up and noticed Deputy Marquez had secured a hobble restraint on the suspect's legs. The suspect's eyes were closed, and he was breathing heavily, which sounded like a snore. Other deputies on scene held the handcuffed suspect in place. Deputy Chavez exited the restaurant to compose himself and had no further involvement in the incident.

Deputy Steven Marquez

On September 13, 2016, Homicide Detectives Karen Shonka and Wayne Holston interviewed Deputy Marquez. Attorney Amanda Waters from the Law Offices of Green & Shinee represented Deputy Marquez. On October 1, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Marquez. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Marquez.

On September 13, 2016, Deputy Marquez was assigned to Temple Station with his partner, Deputy Ramon Chavez, on early morning shift. They heard a carjacking call dispatched in the city of Rosemead and searched for the stolen vehicle.

Deputies Marquez and Chavez received an update the suspect was at the McDonald's on [redacted] and [redacted] in [redacted]
They responded to the restaurant and were the first LASD unit to arrive.

The deputies saw the stolen vehicle, a silver Honda Civic with "City of Rosemead" insignias on the doors, and flashing amber lights atop the car. They parked behind the vehicle and illuminated it with their patrol car spotlights. Deputy Marquez saw a male standing in the south entrance doorway of the McDonald's. The male pointed back inside of the restaurant, which indicated to the deputies, the suspect was inside of the restaurant. Deputies Marquez and Chavez formulated a tactical plan and entered the restaurant to detain the suspect.

The deputies approached the suspect, who was seated at a table, with their firearms drawn. Deputy Marquez holstered his firearm, drew his Taser, and pointed it at the suspect. They ordered the suspect to stand up. The suspect complied, stood up, and mumbled something unintelligible. After they ordered the suspect to turn around, he turned to his right, faced the deputies, and walked toward them. Deputy Marquez and his partner ordered the suspect to stop. They ordered the suspect to turn around and to put his hands behind his back. The suspect did not comply and waved his hands in the air, up and down, while he continued his advancement toward them.

Deputy Marquez did not have a clear shot at the suspect with the Taser and was concerned he would strike Deputy Chavez if he fired **[Deputy Marquez' Homicide transcript page 8]**. He looked down to holster his Taser and took his eyes off of the suspect. After he secured his Taser, Deputy Marquez saw the suspect and other deputies already on the floor. Deputy Marquez did not see how the suspect and deputies ended up on the floor.

Deputy Marquez used his hands and held the suspect's legs and feet to the floor. The suspect freed his right foot and kicked Deputy Marquez' right knee. Deputy Marquez ordered the suspect to stop kicking and used his hands to hold the suspect's right foot. The suspect rolled his body and raised his left knee out to the side of his body and kicked backward, which struck Deputy Marquez' left knee **[Deputy Marquez' IAB transcript, page 15]**. Deputy Marquez re-gripped his hands on the suspect's legs and used his body weight to apply pressure to prevent the suspect from kicking.

Additional deputies arrived and handcuffed the suspect. Deputy Marquez feared the suspect would kick again and applied a hobble to the suspect's legs. Deputy Marquez and other deputies rolled the suspect onto his side. Deputy Marquez heard a "snoring" type sound come from the suspect **[Deputy Marquez' Homicide transcript, page 13]**.

Deputy Marquez saw blood on the floor next to the suspect's face. Deputies monitored the suspect while they waited for the arrival of the fire department. Deputy Bui was positioned near the suspect's torso, while Deputy Marquez kneeled near the suspect's feet as he held the hobble. Deputy Marquez believed the suspect was breathing as they waited for the fire department because he heard the suspect snore.

The fire department arrived, and Deputy Bui took Deputy Marquez' position and controlled of the hobble. Deputy Marquez had no further involvement in the incident.

Deputy Nathan Botten

On September 13, 2016, Homicide Detectives Karen Shonka and Wayne Holston interviewed Deputy Nathan Botten. Attorney Amanda Waters from the Law Offices of Green & Shinee represented Deputy Botten. On October 1, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Botten. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Botten.

On September 13, 2016, Deputy Botten was assigned to Temple Station on early morning shift. On the above date, Deputy Botten responded to the call on Garvey Avenue in Rosemead regarding the carjacking of a city worker, Temple Station Incident number TEM16257-0040 **[EXHIBIT A - Homicide Book, page 41]**.

Deputy Botten was at the location where the carjacking occurred when he heard radio traffic indicating that the carjacking suspect was at the McDonald's on [redacted] and [redacted] He responded to the restaurant and saw Deputies Chavez and Marquez talking to the suspect. He heard Deputies Chavez and Marquez order the suspect to turn around and to place his hands behind his back. The suspect did not comply and just stood there. The suspect "smiled" and motioned his hands up and down and advanced toward Deputy Chavez **[Deputy Botten's Homicide transcript, page 5]**.

The suspect brushed past Deputy Chavez and walked toward Deputy Botten. Deputy Botten believed the suspect was trying to escape or about assault him. Deputy Botten heard other deputies order the suspect to "Get on the floor, get down, get down" **[Deputy Botten's IAB transcript, page 4]**. As Deputy Botten grabbed the suspect's left wrist, Deputy Chavez grabbed the suspect's upper body from behind. Deputy Chavez spun the suspect to his right and took the suspect to the floor.

Deputy Botten straddled the suspect's thighs, with his knees on the floor, and used his body weight to hold the suspect down. The suspect thrashed his body and attempted to push himself up as Deputy Botten pulled the suspect's bicep and ordered him to give up his arm. The suspect pulled his arm away from Deputy Botten's grasp. Deputy Botten feared the suspect would try to strike Deputy Chavez, who was positioned near the suspect's head. Deputy Botten heard Deputy Marquez say, "He's kicking me" **[Deputy Botten's IAB transcript, page 12]**. Deputy Chavez told the suspect to stop kicking and stop fighting. The suspect attempted to turn his body to get up off the floor.

Deputy Botten heard Deputy Chavez strike the suspect, in what sounded like "skin on skin contact" approximately four times **[Deputy Botten's Homicide transcript, page 7]**. Deputy Botten gained control of the suspect's left arm and pulled it behind the suspect's back. Another deputy handcuffed the suspect's right arm. Deputy Botten held the suspect's left wrist while other deputies completed handcuffing the left wrist. Deputy Botten did not see which deputies

handcuffed the suspect. Deputy Marquez hobbled the suspect, at which point Deputy Botten disengaged, and got off the suspect's back.

The suspect was rolled onto his right side. The suspect's eyes were closed and his chest moved. Deputy Botten heard the suspect breathing in a loud snoring manner. Deputy Botten said the snore signified the suspect was still breathing. Deputy Botten exited the restaurant. Deputy Botten had no further involvement related to the incident.

Deputy Alexander Zambrano

On September 13, 2016, Homicide Detectives Wayne Holston and Karen Shonka interviewed Deputy Zambrano. Attorney Amanda Waters from the Law Offices of Green & Shinee represented Deputy Zambrano. On October 1, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Zambrano. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Zambrano.

On September 13, 2016, Deputy Zambrano was assigned to Temple Station on early morning shift. He responded to the location on Garvey Avenue regarding a carjacking and was the first LASD unit to arrive. He briefly spoke to the victim of the crime, Witness Alcala, who told him that a "homeless" man punched her and stole her car. Deputy Zambrano left the scene and searched for the suspect.

Deputy Zambrano heard radio traffic the suspect was at the McDonald's restaurant **[EXHIBIT C, Radio Traffic, audio file #7]**. As Deputy Zambrano entered the restaurant, the suspect walked toward Deputy Chavez and flailed his arms. Deputy Chavez grasped the suspect by the shoulders and took the suspect to the floor. The suspect fell on his stomach, and Deputy Zambrano saw approximately four deputies struggle to restrain the suspect.

The suspect was ordered to put his hands behind his back; however, the suspect did not comply and continued to resist. While crouched near the suspect's right side, Deputy Zambrano used his hands, grasped the suspect's right arm, right wrist, and pulled it behind the suspect's back. Deputy Zambrano lost his grip and the suspect pulled his arm underneath his body. Deputy Chavez said, "Stop fighting" and Deputy Zambrano heard the "flesh on flesh" sound of the suspect being punched by Deputy Chavez **[Deputy Zambrano's Homicide transcript, page 9 and Deputy Zambrano's IAB transcript, page 5]**. Deputy Zambrano did not see Deputy Chavez punch the suspect because he was focused on the suspect's right arm.

Deputy Zambrano pulled the suspect's right arm back. He placed the arm behind the suspect's back and used both hands to hold it into place. Deputy Zambrano saw other deputies handcuff the suspect's right wrist, and then the suspect's left wrist. During the struggle, Deputy Zambrano did not see which deputies

handcuffed the suspect. The suspect was placed on his right side. The suspect bled from his mouth and had a hobble restraint on his legs. The suspect was breathing in a way that sounded like snoring.

Deputy Bui took Deputy Zambrano's position and held onto the suspect's back in order to keep the suspect balanced on his right shoulder. The suspect became quiet, and the suspect's body became limp. Deputy Zambrano realized the suspect was unresponsive. Deputy Zambrano exited the restaurant to ensure the fire department had arrived. As he exited the door, the fire department personnel entered the restaurant. The fire department performed medical aid on the suspect. Deputy Zambrano had no further involvement related to the incident.

EMPLOYEE WITNESSES

Deputy Eric Gonzalez

On September 13, 2016, Homicide Detectives Wayne Holston and Karen Shonka interviewed Deputy Gonzalez. Attorney Amanda Waters from the Law Offices of Green & Shinee represented Deputy Gonzalez. On October 1, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Gonzalez. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Gonzalez.

> **IAB Note:** In May of 2019, Deputy Gonzalez was promoted to the position of sergeant.

On September 13, 2016, Deputy Gonzalez was assigned to Temple Station on early morning shift. A carjacking occurred, and Deputy Gonzalez responded to search for the stolen vehicle. Approximately 15 minutes later, he received updated information the suspect and stolen vehicle were at the McDonald's on [redacted] and [redacted] He responded to the location and viewed the interior of the restaurant through the large glass windows as he approached the entrance. Deputies stood in front of the suspect and appeared to give him commands. The suspect rushed toward the deputies and flailed his arms. Deputy Gonzalez ran into the restaurant and saw deputies trying to control the suspect on the floor.

The suspect's was chest down on the floor. Deputy Chavez was positioned near the suspect's head and upper torso. Deputy Zambrano was near the suspect's right side, Deputy Botten was near the suspect's left side, and Deputy Marquez was at the suspect's feet. The suspect tried to get up, kicked wildly, and resisted deputies as they attempted to control him. Deputy Gonzalez ordered the suspect to place his hands behind his back, but he did not comply. The suspect "Went through the excited delirium…he had like supernatural strength" **[Deputy Gonzalez' IAB transcript, page 7]**. Deputy Chavez repeatedly told the suspect

to stop fighting, and then Deputy Chavez punched the suspect approximately three times in the face. Deputy Zambrano pulled the suspect's right arm behind his back, and Deputy Gonzalez handcuffed the suspect's right arm. Deputy Botten placed the suspect's left arm behind his back, and Deputy Gonzalez secured the left handcuff on the suspect.

A hobble was placed on the suspect's legs, and he was turned onto his right side. The suspect began heavily breath, and he made strange noises from his mouth. Deputy Gonzalez was never aware the suspect had stopped breathing, or was in medical distress **[Deputy Gonzalez' IAB transcript, page 8]**. After approximately three or four minutes, fire department personnel arrived and provided medical aid. Deputy Gonzalez had no further involvement related to the incident.

Deputy Rafael Ruiz

On September 13, 2016, Homicide Sergeant Dan McElderry interviewed Deputy Rafael Ruiz. Attorney Maureen Okwuosa from the Law Offices of Green & Shinee represented Deputy Ruiz. On October 14, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Ruiz. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Ruiz.

On September 13, 2016, Deputy Ruiz was assigned to Temple Station on early morning shift. Deputy Ruiz heard radio traffic requesting Rosemead units regarding a carjacking. Deputy Ruiz handled a burglary alarm call at the time and did not respond to the carjacking call in Rosemead. A short time later, an MDC message indicated the stolen vehicle was at the McDonald's restaurant. Deputy Ruiz responded to the location and walked into the entrance behind Sergeant Serpa. His view was slightly obscured by Sergeant Serpa's body as they entered. The suspect stood face to face with Deputy Chavez, who took the suspect down to the floor. Deputy Ruiz wasn't able to see exactly how the suspect was taken to the ground due to his obscured view. Deputies Chavez, Botten, and Marquez struggle with the suspect on the floor. The suspect moved around and tried to get up. Deputy Ruiz attempted to assist in handcuffing the suspect, but other deputies were in his way **[Deputy Ruiz' IAB transcript, page 5]**.

Deputies ordered the suspect to "put your hands behind your back," and "stop fighting" **[Deputy Ruiz' Homicide transcript, page 6]**. The suspect did not comply. Deputy Ruiz saw Deputy Chavez' hand move forward approximately three times, as if he had punched the suspect. Due to the others obstructing his view, Deputy Ruiz could not see if the punches connected with the suspect. Deputy Marquez placed a hobble restraint on the suspect's legs. The other deputies turned the suspect onto his right side, and the suspect made a snoring type sound. The suspect's stomach moved, which indicated to Deputy Ruiz the suspect was breathing and "just thought he fell asleep" **[Deputy Ruiz' IAB**

transcript page 9]. The suspect bled from his face. Deputy Ruiz was not aware the suspect was in medical distress, and he exited as the fire department arrived. Deputy Ruiz had no further involvement related to the incident.

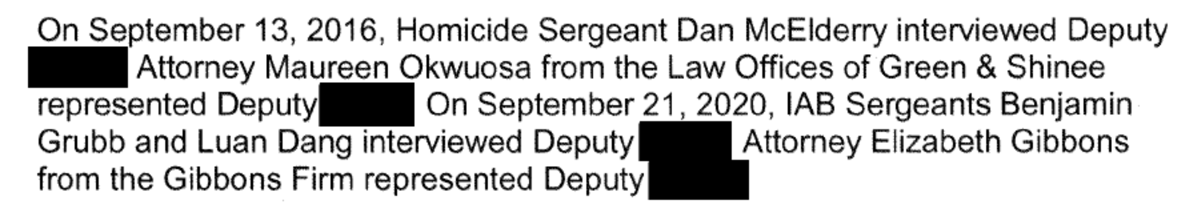
Deputy Christopher Flores

On September 13, 2016, Homicide Sergeant Dan McElderry interviewed Deputy Flores. Attorney Maureen Okwuosa from the Law Offices of Green & Shinee represented Deputy Flores. On September 21, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Flores. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Flores.

On September 13, 2016, Deputy Flores was assigned to Temple Station on early morning shift, when he received information a carjacking suspect was located at the McDonald's restaurant. He responded to the McDonald's from the Sierra Madre area and was one of the last units to arrive.

The suspect was on the floor with deputies around him, but he could not see what the deputies and suspect were doing because his view was blocked. Deputy Flores anticipated the suspect would need to be removed from the restaurant. He cleared a pathway and moved furniture to make room for personnel to escort the suspect out. Deputies crowded around the suspect, and the only portion of the suspect visible to Deputy Flores was the suspect's feet. Deputy Marquez placed a hobble on the suspect's feet. The suspect did not move and did not resist when Deputy Marquez applied the hobble. Deputy Flores exited the restaurant and completed the vehicle recovery report related to the stolen vehicle under URN #016-10457-0534-038 **[EXHIBIT A - Homicide Book, pages 30-35]**. He had no further involvement in the incident.

Deputy [redacted]


On September 13, 2016, Homicide Sergeant Dan McElderry interviewed Deputy [redacted] Attorney Maureen Okwuosa from the Law Offices of Green & Shinee represented Deputy [redacted] On September 21, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy [redacted] Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy [redacted]

On September 13, 2016, Deputy [redacted] was assigned to Temple Station on early morning shift as a [redacted] His partner was Deputy Francis Bui. They heard a crime broadcast regarding a carjacking in the city of Rosemead.

Approximately 15 minutes later, radio traffic broadcasted deputies had detained the carjacking suspect at gunpoint at the McDonald's restaurant. Deputies [redacted] and Bui responded to the McDonald's restaurant. Upon arrival, they saw the

suspect on the floor with deputies around him. The suspect was positioned with his right shoulder to the floor. He was handcuffed, and his legs were hobbled. Deputy Zambrano held the suspect's back to prop him up and balanced the suspect's body on his right shoulder. Deputy Marquez held the lead of the hobble near the suspect's feet. The suspect "gargled" and spat some blood from his mouth **[Deputy [redacted] Homicide transcript, pages 4-5]**.
Sergeant Serpa directed deputies to put a spit mask on the suspect. Deputy Bui attempted to secure the spit mask on the suspect. The spit mask was partially placed on top of the suspect's head, but it was too small to completely fit over his head. The attempt to place the spit mask was discontinued, and the mask was removed.

While waiting for the fire department to arrive, the suspect became quiet. Deputies noticed the suspect was unresponsive, shook him, and asked him if he was okay. The suspect did not respond and Deputy [redacted] went outside and escorted LACOFD into the restaurant **[Deputy [redacted] Homicide transcript, page 8]**. After the suspect was pronounced deceased, Deputies [redacted] and Bui operated the command post for the incident.

Deputy Francis Bui

On September 13, 2016, Homicide Sergeant Gene Okada and Detective Ron Duval interviewed Deputy Bui. Attorney Amanda Waters from the Law Offices of Green & Shinee represented Deputy Bui. On October 1, 2020, IAB Sergeants Benjamin Grubb and Luan Dang interviewed Deputy Bui. Attorney Elizabeth Gibbons from the Gibbons Firm represented Deputy Bui.

On September 13, 2026, Deputy Bui was assigned to Temple Station early morning shift, in a two-person car with Deputy [redacted] Radio traffic indicated a carjacking occurred in Rosemead, but they did not respond to the call for service. A short time later, radio traffic broadcasted the carjacking suspect was being held at gunpoint at the McDonald's restaurant. Deputies [redacted] and Bui responded to the location.

Upon arrival, numerous deputies and civilians were inside of the restaurant. The handcuffed and hobbled suspect was on the floor, facing chest-down. Deputy Bui assisted deputies and rolled the suspect over to his right side. The suspect spat out blood, and Sergeant Serpa directed deputies to place a spit mask on the suspect. Deputy Bui retrieved a spit mask and attempted to place it on the suspect, who was still lying on the floor on his right side. The suspect was conscious and breathing when Deputy Bui attempted to place the spit mask on his head. As the spit mask was secured on the top portion of the suspect's head, it became apparent the spit mask was too small, and would not fit over the suspect's head. The attempt to secure the spit mask was discontinued and the mask was removed.

Deputies Bui and Marquez monitored the suspect as they awaited the arrival of the fire department. Deputy Bui noticed the suspect stopped moving and immediately attempted to check the suspect's pulse. He placed two fingers on the suspect's carotid artery to locate a pulse. Deputy Bui did not detect a pulse, but was unsure if his fingers were in the correct position. As he attempted to locate a pulse, the fire department walked into the restaurant **[Deputy Bui's IAB transcript, page 7]**. Deputies removed the handcuffs from the suspect and let the fire department attend to the suspect's medical care. After the suspect was deceased, Deputies [redacted] and Bui operated the command post for the incident.

Sergeant Curt Messerschmidt

On September 13, 2016, Sergeant Messerschmidt was interviewed by Homicide Sergeant Dan McElderry and IAB Sergeant John Adams. On September 30, 2020, IAB Sergeant Grubb interviewed Sergeant Messerschmidt.
On September 13, 2016, Sergeant Messerschmidt was assigned to Temple Station as Unit 50S, a field sergeant on early morning shift. He responded to a call of a carjacking of a Rosemead city employee. Sergeant Messerschmidt drove to the location of the carjacking, where the victim was interviewed by the handling deputies.

A business disturbance call for service was broadcasted a short time later, which described the stolen vehicle and suspect at the McDonald's on [redacted] and [redacted] Sergeant Messerschmidt responded to the location with several units. The coordination for the response to the McDonald's restaurant was limited due to the suspect's access to the LASD radio within the stolen car. Upon arrival, four or five units were already at the location, which included Sergeant Serpa. Sergeant Messerschmidt approached the restaurant entrance and through the windows saw deputies inside had the suspect detained at gunpoint. Sergeant Messerschmidt saw the suspect lunge at the deputies through the restaurant windows. He entered the restaurant and saw the suspect already on the ground with deputies. He did not see the suspect taken to the ground by the deputies.

Deputy personnel told the suspect to place his hands behind his back, but the suspect did not comply **[Sergeant Messerschmidt's IAB transcript, page 10]**. Four deputies attempted to handcuff the suspect; Deputy Chavez was positioned near the suspect's upper torso, Deputy Marquez held the suspect's feet, Deputy Zambrano held one of the suspect's arms, and Deputy Botten was present. Sergeant Messerschmidt couldn't recall where Deputy Botten was positioned or how he assisted. Deputies ordered the suspect to stop resisting and quit fighting. Deputy Chavez struck the suspect three to four times in the face with his fist. The punches appeared to be successful as they gained compliance from the suspect and his resistance ceased. Deputies were able to control the suspect's arms and he was handcuffed.

Deputy Marquez placed a hobble restraint on the suspect's legs and the deputies rolled the suspect over onto his side. Deputies monitored the suspect's airway, breathing, and circulation **[Sergeant Messerschmidt's IAB transcript, page 11]**. The suspect bled from his nose. Sergeant Serpa requested emergency medical response via his portable radio. Sergeant Messerschmidt exited the restaurant to call the watch commander, Lieutenant Tri Hoang. As he spoke on the phone, fire department personnel arrived and entered the restaurant. Sergeant Serpa exited the restaurant and told Sergeant Messerschmidt the suspect had stopped breathing. After the suspect was deceased, Sergeant Messerschmidt re-contacted the watch commander.

Sergeant Jeffery Serpa

On September 13, 2016, Sergeant Serpa was interviewed by Homicide Sergeant Dan McElderry and IAB Sergeant John Adams. On September 28, 2020, IAB Sergeant Grubb interviewed Sergeant Jeffery Serpa.

On September 13, 2016, Sergeant Serpa was assigned to Temple Station as Unit 51S, a field sergeant on early morning shift. He responded to a call of a carjacking of a Rosemead city employee. Sergeant Serpa heard a strange voice on the L-TAC radio frequency which stated, "Meter maid's dead." Sergeant Serpa later learned the radio traffic had been broadcast by the suspect **[Sergeant Serpa's Homicide transcript, page 17]**.

Sergeant Serpa responded to the McDonald's on [redacted] and [redacted] after being advised the carjacking suspect had been reported there. He arrived and entered the restaurant, where Deputies Chavez and Marquez had detained the suspect. Deputies Chavez and Marquez gave the suspect verbal commands to stand up and turn around. Deputy Chavez pointed his firearm at the suspect and Deputy Marquez pointed a Taser at the suspect. Sergeant Serpa feared for the safety of restaurant patrons, so he directed other deputies to escort the patrons out of the restaurant. The suspect stood up, started to turn around and did a "boxing dance" while he lunged forward as if he was trying to break through between the two deputies **[Sergeant Serpa's Homicide transcript, page 5]**. Sergeant Serpa saw the suspect grabbed by the upper chest, and taken to the floor by Deputy Chavez.

Once on the floor, Sergeant Serpa's view was obstructed by a small pony wall and other deputies which were crowded around the suspect. Deputies grasped the suspect's arms and attempted to control them. One deputy grasped one of the suspect's arms, and another deputy grasped the suspect's other arm. Sergeant Serpa didn't know which deputies grasped the suspect's hands. Deputy Marquez ordered the suspect to stop kicking and Deputy Chavez ordered the suspect to stop fighting.

The deputies controlled and handcuffed the suspect. Under Sergeant Serpa's direction, the suspect was hobbled. Sergeant Serpa requested emergency medical response via radio **[EXHIBIT C - Radio Traffic, audio file #14]**. He requested medical personnel at that juncture because the takedown occurred, and he anticipated a medical evaluation by paramedics was required before the suspect could be booked **[Sergeant Serpa's Homicide transcript, page 15]**.

The suspect was turned over onto his side. Sergeant Serpa noticed blood on the suspect's face. The suspect made a grunt or cleared his throat which indicated to Sergeant Serpa the suspect was going to spit at the deputies. Under the direction of Sergeant Serpa, deputies attempted to place a spit mask on the suspect. The spit mask was too small and did not fit over the suspect's head. The attempt to secure the spit mask was discontinued and the mask was removed.

The suspect lied on his side while they waited for fire department personnel to arrive. The suspect's body moved, which indicated the suspect was breathing. There was no indication the suspect was in emergent medical distress. Sergeant Serpa backed away from the suspect as the fire department arrived. LACOFD personnel advised the suspect did not have a pulse and administered CPR. LACOFD personnel ceased treatment of the suspect, and they pronounced him deceased. Sergeants Serpa and Messerschmidt ensured the scene was secured and arranged for witness transportation **[Sergeant Serpa's Homicide transcript, pages 4-5]** until the arrival of Homicide investigators.

<u>CIVILIAN WITNESSES</u>

Witness Frances Alcala

On September 13, 2016, Homicide Sergeant Karen Shonka and Detective Wayne Holston interviewed Witness Alcala.

On September 13, 2016, Witness Alcala was employed by the city of Rosemead, as a uniformed Parking Enforcement Officer. At approximately 4:10 AM, she noticed an illegally parked vehicle at [redacted] Garvey Avenue in the city of Rosemead. She parked behind the vehicle to issue a citation. A transient male, later identified as the suspect, sat on the curb near the vehicle she intended to cite for the violation. The suspect denied ownership of the vehicle and Witness Alcala began to write a citation.

The suspect became angry, stood up, and shouted at Witness Alcala, "Why are you giving him a ticket? You're not -- you're not an f-ing cop, you're not even a real cop" **[Witness Alcala's Homicide transcript, page 1]**. The suspect advanced toward Witness Alcala, who told him to stop. She opened the driver's door on her vehicle to retrieve her LASD radio and summon help. The suspect slammed the door shut with his hand. Witness Alcala turned her back to the

suspect to go around to the passenger door of her vehicle. The suspect punched her in the back of her head and she fell to the ground. As Witness Alcala retrieved her glasses from the ground, the suspect entered, and drove away in her city vehicle. Witness Alcala immediately reported the crime to Temple Station dispatch **[EXHIBIT C - 911 Calls, audio file #1]**.

Witness [redacted]

On September 13, 2016, Homicide Detective Donna Cheek and IAB Investigator Sergeant [redacted] interviewed Witness [redacted] The interview was conducted with the assistance of Deputy Orlando Macias #[redacted] who served as a Spanish language interpreter.
On September 13, 2016, Witness [redacted] was a McDonald's [redacted] and began his shift at four o'clock in the morning. He mopped the floor in the kitchen area when a male white, later identified as the suspect, entered the restaurant. The suspect appeared angry, upset, and took cookies from a display case on the front counter of the restaurant. Witness [redacted] told the suspect to get out of the restaurant. The suspect exited the restaurant and went into a vehicle parked near the restaurant entrance. The vehicle had flashing lights, and appeared to belong to the city (Rosemead), based on the markings on the side of the vehicle. The suspect was not wearing a uniform of any kind, appeared disheveled and homeless. Witness [redacted] was surprised because the suspect's unofficial appearance did not match someone who would be in the official vehicle.

The suspect reentered the restaurant, took more cookies from the display case, exited the door, and went into the vehicle. The suspect entered again, and cursed insults at the restaurant staff and threw coins on the counter. The suspect again exited the restaurant and sat inside of the vehicle.

The restaurant [redacted] called the police. While on the phone, the police began to ask the [redacted] many questions. The [redacted] had difficulty communicating because she lacked English language skills. The [redacted] handed the phone to a restaurant [redacted] who explained what had occurred.

The suspect reentered the restaurant with a lunch bag and sat at a table. The deputies arrived and told the suspect to stand up. The suspect stood up, kicked, and swung his fists at deputies. A deputy grabbed the suspect's arm, and the deputies and suspect struggled with each other into an area of the restaurant which was out of his view. His view was obstructed by the self-serve soda fountain machine. The suspect fell, or was taken to the floor by the deputies. The deputies surrounded the suspect and Witness [redacted] went back to work.

Witness [redacted]

On September 13, 2016, Homicide Detective Donna Cheek and IAB Investigator Sergeant [redacted] interviewed Witness [redacted] The interview was conducted with the assistance of Deputy Orlando Macias, who served as a Spanish language interpreter.

On September 13, 2016, Witness [redacted] was the McDonald's restaurant [redacted] At approximately 4:40 AM, the suspect came into the restaurant and screamed curse words at the customers. The suspect appeared to be drunk or under the influence and acted strange. The suspect shouted in the general direction of people, but not at anyone in particular. Witness [redacted] told the suspect to leave. The suspect stole cookies by the front door, exited the restaurant, and went to his vehicle, which was parked by the drive-through. The suspect entered the establishment and Witness [redacted] told him to move his vehicle because he blocked the drive-through. The suspect said, "shut up mother fucker" **[Witness [redacted] Homicide transcript, page 1]**. Witness [redacted] called 9-1-1 and reported the suspect's behavior **[EXHIBIT C - 911 Calls, audio file #2]**.

The police arrived and stood in front of the suspect, told him to stand up, and to turn around. The suspect did not obey the commands. The suspect stood up, put his hands on his hips, danced, and then lunged at the deputies. The deputies tried to control the resistive suspect. A deputy "bear hugged" the suspect and the suspect fell down **[Witness [redacted] Homicide transcript, page 5]**. The ambulance arrived and treated the suspect. The entire incident began at approximately 4:40 AM when the man came in, and ended at approximately 5:00 – 05:10 AM, when the ambulance arrived.

Witness [redacted]

On September 13, 2016, Homicide Detective Donna Cheek and IAB Investigator Sergeant [redacted] interviewed Witness [redacted]

On September 13, 2016, Witness [redacted] was seated inside the McDonald's restaurant when the suspect entered with a crazed, aggressive appearance "rantin' and ravin" about robbing a bank" **[Witness [redacted] Homicide transcript, page 1]**. The suspect shouted at a McDonald's employee working at the counter, then stole cookies off the counter and went out to his vehicle. The vehicle was a Honda Civic with "official" city writing on the back bumper. The suspect entered the restaurant again, took more cookies, and returned to the vehicle.

The restaurant [redacted] called police but handed the phone to Witness [redacted] because he spoke better English. The police dispatcher on the phone told Witness [redacted] to try to give the suspect food until the units arrived **[EXHIBIT C - 911 Calls, audio file #2]**. Witness [redacted] understood this to mean the dispatcher wanted him to keep the suspect there "as long as you can" **[Witness**

[redacted] **Homicide transcript, page 10]** because police thought the suspect was a flight risk.

The suspect entered the restaurant again and sat at a booth. As the suspect sat in the booth, Witness [redacted] view of the suspect was partially obscured by a partition within the restaurant. The deputies entered the restaurant and told the suspect to turn around. They attempted to handcuff the suspect. As more deputies arrived, Witness [redacted] view was blocked.
The suspect charged at the deputies and somehow they took the suspect to the floor, but Witness [redacted] did not see how it occurred. Once on the floor, the suspect continued to resist by flailing his hands around as deputies ordered him to stop fighting. The deputies and resistive suspect moved around on the floor, and then it got quiet. Witness [redacted] later saw the suspect receive CPR.

Witness Sergio Romo

On September 20, 2016, Homicide Sergeant Karen Shonka and Detective Wayne Holston interviewed Witness Romo.

On September 13, 2016, Witness Romo was a firefighter specialist for LACOFD, Engine Company Five under the Direction of Captain Jon Arvizu. Witness Romo and his partners responded to a medical call, and was amongst the first group of firefighters to arrive at the McDonald's. Upon his arrival, the handcuffed suspect lied on his side on the restaurant floor. The suspect was un-handcuffed by deputies and placed on his back so LACOFD personnel could assess the suspect. The suspect did not have blood pressure or a pulse **[Witness Romo's Homicide transcript, page 3]**. They immediately began CPR to revive the suspect. They utilized chest compressions and a bag valve mask until paramedics from LACOFD, Engine 47 arrived.

> **IAB NOTE:** A bag valve mask, manual resuscitator or "self-inflating bag", is a hand-held device commonly used to provide positive pressure ventilation to patients who are not breathing or not breathing adequately.

Witness Richard Sherlock

On September 20, 2016, Homicide Sergeant Karen Shonka and Detective Wayne Holston interviewed Witness Sherlock.

On September 13, 2016, Witness Sherlock was a firefighter/ paramedic for the LACOFD, Engine 47. LACOFD received a call of an injury with LASD on the scene. Witness Sherlock responded to the McDonald's within five minutes. Upon arrival, the suspect was on his back, and two firefighters from Engine Company Five administered CPR. Deputies told Witness Sherlock the suspect

had been combative, and there had been a physical altercation between the suspect and deputies.

Witness Sherlock connected a heart monitor to the suspect and found the suspect was in full cardiac arrest. He and his partner put the suspect on a defibrillator, established intravenous access, gave the suspect two rounds of epinephrine, and continued CPR **[Witness Sherlock's Homicide transcript, page 3]**. Resuscitation efforts continued for 15-20 minutes; however, the suspect was unresponsive to treatment. LACOFD personnel were not able to reestablish a pulse. Witness Sherlock telephoned Arcadia Methodist Hospital to seek additional guidance, which is LACOFD protocol. Witness Sherlock spoke to Doctor Fakoi. The doctor determined that treatment would be discontinued, and the suspect was pronounced deceased in the field **[Witness Sherlock's Homicide transcript, page 4]**.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOSEPH P. ESPOSITO • Chief Deputy District Attorney
VICTORIA L ADAMS • Assistant District Attorney

JAMES GARRISON • Director

February 11, 2020

CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: In-Custody Death of Timothy McMillan
J.S.I.D. File #16-0466
L.A.S.D. File # 016-10457-0534-038

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 13, 2016, in-custody death of Timothy McMillan involving Los Angeles County Sheriff's Deputies Ramon Chavez, Steven Marquez, Nathan Botten, and Alexander Zambrano. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

cc: Deputy Ramon Chavez, #[redacted]
Deputy Steven Marquez, #[redacted]
Deputy Nathan Botten, #[redacted]
Deputy Alexander Zambrano, #[redacted]

Hall of Justice
211 West Temple Street, Suite 1200
Los Angeles, CA 90012
(213) 974-3888
Fax: (213) 626-5125
WEBSITE: http://da.lacounty.gov

MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: In-Custody Death of Timothy McMillan
J.S.I.D. File #16-0466
L.A.S.D. File #016-10457-0534-038

DATE: February 11, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the September 13, 2016, in-custody death of Timothy Shannon McMillan involving Los Angeles County Sheriff's Department (LASD) Deputies Ramon Chavez, Steven Marquez, Nathan Botten, and Alexander Zambrano. We have concluded that the deputies used reasonable force under the circumstances and are not criminally responsible for McMillan's death.

The District Attorney's Command Center was notified of this in-custody death at approximately 7:35 a.m., on September 13, 2016. The District Attorney Response Team (DART) responded to the location, and was given a briefing regarding the circumstances surrounding the use of force and a walk through of the scene.

The following analysis is based on investigative reports, audio recordings, transcripts of interviews, the autopsy report, crime scene diagrams and sketches, photographic and video evidence, and witness statements submitted by LASD Homicide Detectives Karen Shonka and Wayne Holston.

FACTUAL ANALYSIS

On September 13, 2016, at approximately 4:00 a.m., McMillan carjacked a Rosemead city vehicle being operated by Rosemead public safety officer Frances A. Frances A. told [redacted] who was standing nearby, to call 9-1-1.[1] [redacted] placed the call, then handed his phone to Frances A. who reported the carjacking and requested assistance.

[1] Frances A.'s phone was in the car stolen by McMillan.

McMillan drove Frances A.'s city vehicle to a McDonald's restaurant on [redacted] in [redacted] He parked immediately outside the south entrance to the restaurant. See Figure 1 below.

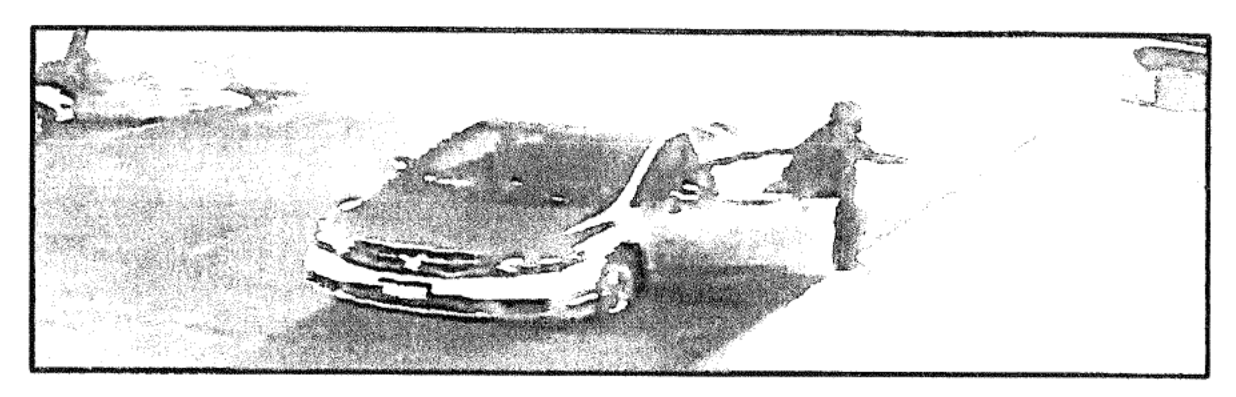


Figure 1: An external surveillance camera at McDonald's captured McMillan leaving the Rosemead city car near the sidewalk abutting the south entrance to McDonald's, and exiting the car.

McMillan entered McDonald's at approximately 4:40 a.m. He began yelling, first at McDonald's employees behind the counter and then at customers seated in the dining area. Restaurant [redacted] tried to calm him, but McMillan cursed at her. McMillan then walked towards the door, grabbed a handful of cookies from a display case, and walked back to the car. McMillan came back inside the restaurant a few minutes later carrying a lunch pail.

[redacted] asked McMillan to move the car because it was obstructing a driveway. McMillan became enraged and shouted, "Shut up motherfucker!" [redacted] told McMillan that she was not going to talk to him anymore and that she was going to call the police. She proceeded to the back office and called 9-1-1. McMillan grabbed more cookies, continued to yell and curse, took some pennies from his pocket, and threw the loose change at the counter. McMillan then sat down at a table near the soda machine.[2] See Figure 2 below.

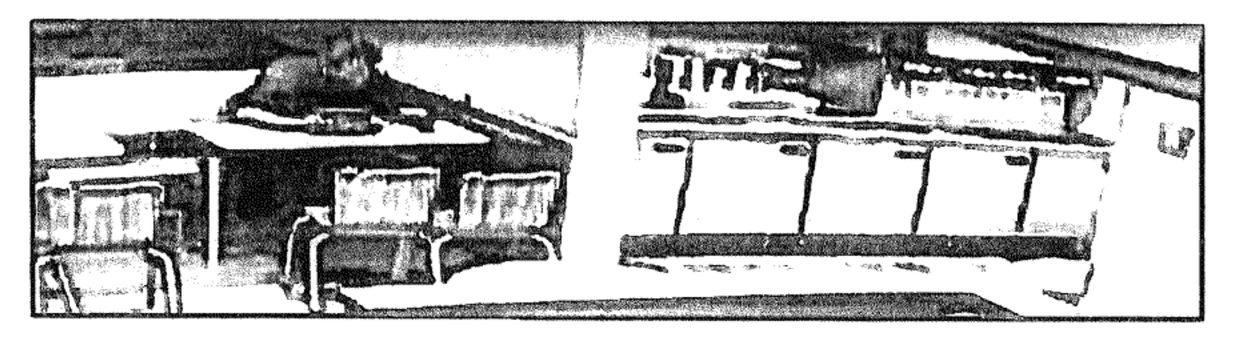


Figure 2: McMillan occupied a table near the soda counter.

[2] Another McDonald's employee named [redacted] substantially corroborated the account given by [redacted] A McDonald's customer, [redacted] indicated that McMillan also shouted about having just robbed somebody.

LASD dispatch broadcast that a carjacking had occurred. Upon receiving the 9-1-1 call from McDonald's, it was broadcast that the Rosemead city car had been sighted there. Uniformed LASD Deputies Ramon Chavez and Steven Marquez, who were working a marked black and white vehicle in the area, responded and were the first law enforcement officers to arrive.[3] The deputies parked approximately 15 feet behind the city vehicle and entered the restaurant. Chavez entered through the south door. Marquez entered through the west door. Chavez approached McMillan with his pistol drawn. Marquez initially drew his service weapon, but holstered his handgun and drew his Taser as they approached. Chavez saw that McMillan was eating. Chavez ordered McMillan to show his hands. See Figure 3 below.

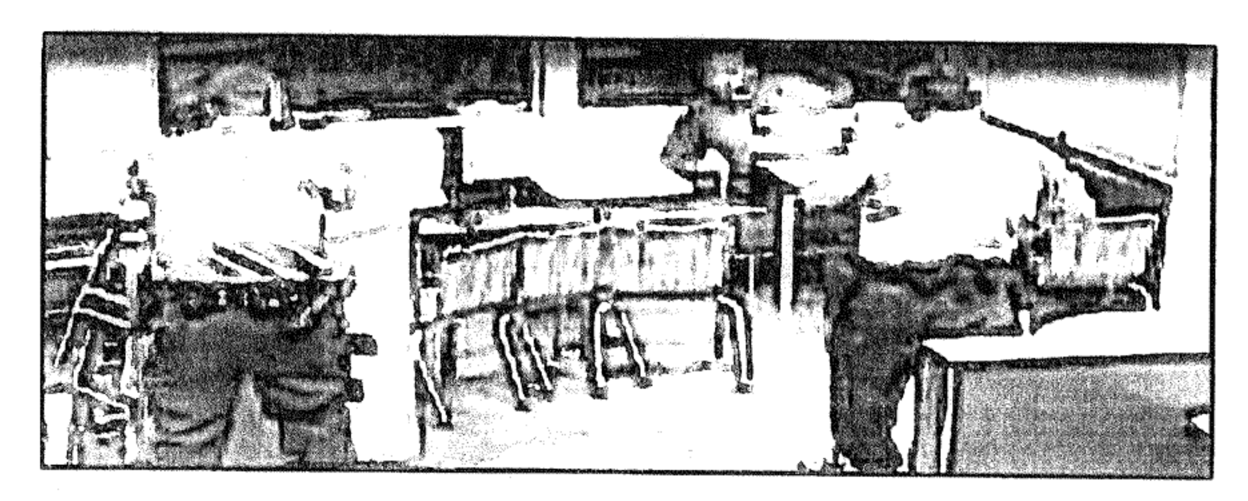


Figure 3: Deputies Marquez and Chavez as they contact McMillan.

McMillan raised his hands in compliance with the deputy's orders. Chavez ordered McMillan to stand up, turn around, and place his hands behind his back. McMillan muttered indiscernibly. McMillan stood up, turned around momentarily, and faced the window with his back towards the deputies as instructed, but then made a quarter turn clockwise, and bladed his body perpendicular to Chavez while letting his right arm hang to his side.

In the meantime, a number of other deputies arrived, including LASD Sergeant Jeffrey Serpa and Deputy Nathan Botten. Botten heard Chavez and Marquez giving instructions to McMillan. Serpa observed Chavez directing McMillan. After turning his body at an angle toward Chavez, McMillan began doing what Serpa described as "a weird boxing dance." Botten described McMillan as pointing his index fingers and moving them up and down as he moved towards

[3] Chavez was Marquez's [redacted] at the time of the incident.

Chavez. Seeing that McMillan had no weapon in his hands, Chavez holstered his pistol. McMillan advanced towards Chavez. See Figure 4 below.



Figure 4: McMillan did his "boxing dance" just before charging towards Botten.

Realizing that he no longer had a shot that would not involve risk to Chavez, Marquez holstered his Taser. As McMillan pranced, he advanced diagonally to Chavez's right in the general direction of Botten who stood about eight feet further back. As McMillan advanced, he appeared to throw a couple of shadowbox punches in Botten's direction, then suddenly rushed towards Botten. See Figure 5 below.

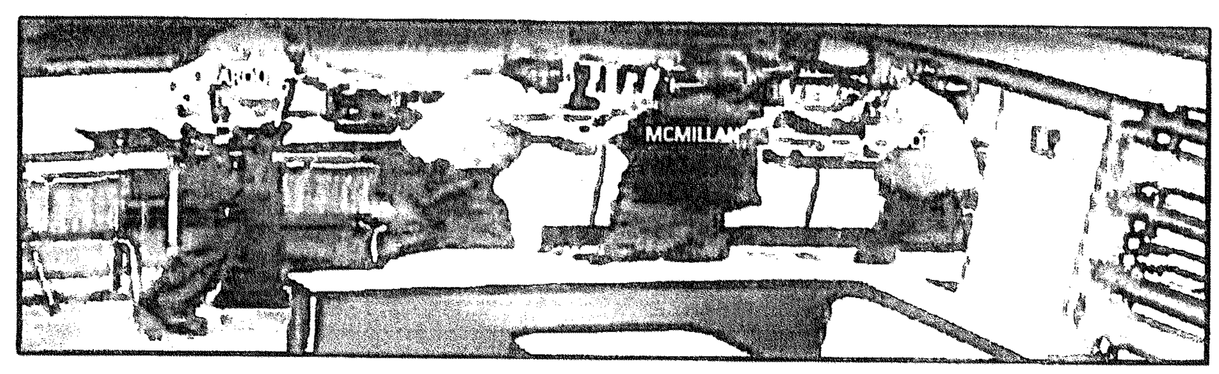


Figure 5: McMillan rushed past Chavez towards Botten.

Botten grabbed hold of McMillan's left wrist. Chavez collared McMillan as he went by, then wrapped his left arm around McMillan's upper chest, turned him clockwise, and executed a spinning takedown that resulted in McMillan being placed face down on the floor and Chavez on top of McMillan's back.[4] McMillan, who was not a small man[5], went down hard. About the time of the takedown, Serpa requested paramedics to the scene. See Figure 6 below showing the moment of takedown.

[4] Chavez indicated that because of the spin, he was unable to break his own fall and that he landed atop McMillan.
[5] The medical examiner's report noted that McMillan was 71 inches tall and weighed 282 pounds.

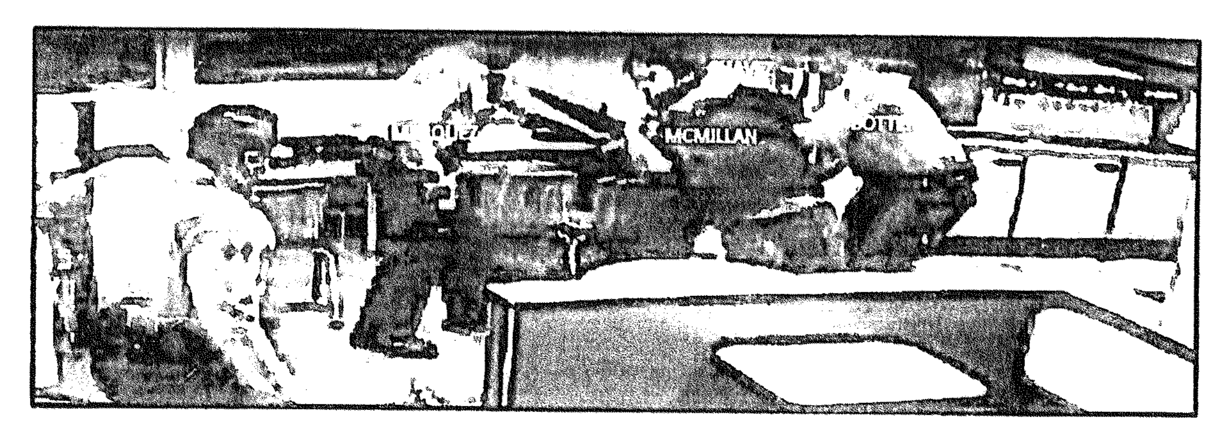


Figure 6: Chavez wrapped his left arm around McMillan's upper chest, then spun him to the floor.

Chavez landed on his own left arm which was pinned beneath McMillan's clavicle and neck. Once McMillan was on the floor, deputies swarmed McMillan in an effort to subdue him. McMillan continued to struggle to break free once he was on the floor. Chavez acknowledged using his right hand to punch McMillan in the eyebrow three to four times, while telling McMillan to stop fighting.

While the pile is visible in the surveillance video, a pony wall at the end of a table row obstructed the camera's view of McMillan. Some general movement of deputies' torsos can be seen, reflective of the struggle. See Figure 7 below.

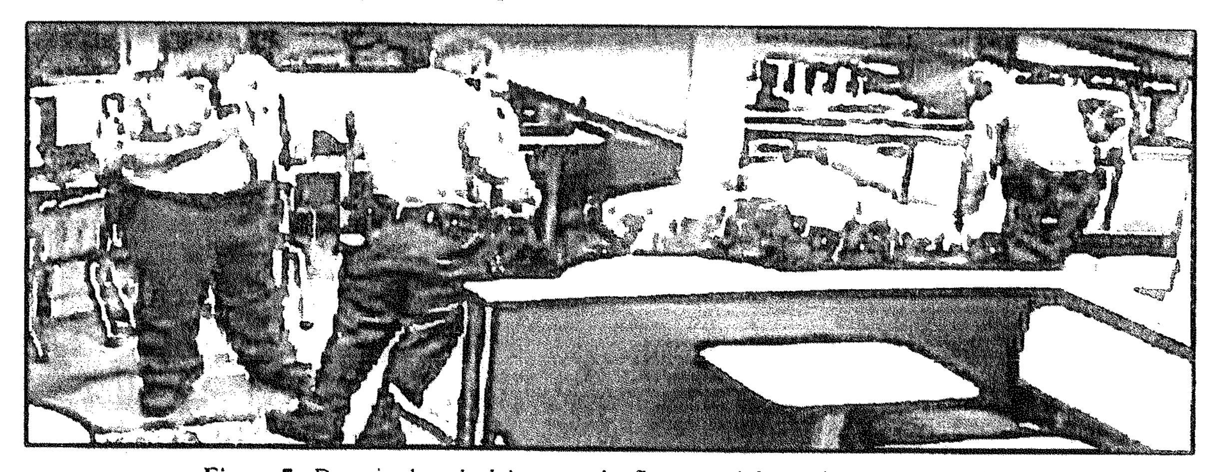


Figure 7: Deputies hunched down on the floor to subdue and restrain McMillan.

Witness accounts detail what happened on the floor. Botten stated that he lost his grip on McMillan's wrist as Chavez took McMillan down. Botten immediately got on McMillan's back in order to keep him on the floor. Botten then attempted to control McMillan's left arm, which McMillan managed to pull away a couple of times. Marquez acted to control McMillan's legs and McMillan donkey-kicked him in response. Marquez also described McMillan as "bucking," (lifting up his rear end) in an effort to get up. Botten heard Marquez tell McMillan to stop kicking, so Botten repositioned his left knee on top of McMillan's left thigh to help control McMillan's legs.

Deputy Alexander Zambrano arrived on scene as McMillan began his assault on the deputies. Zambrano assisted in the effort to restrain McMillan. Zambrano tried to pull McMillan's right arm around behind his back. Zambrano heard Chavez state, "Stop fighting! Stop fighting!" and heard what sounded like four punches. Botten also heard Chavez tell McMillan to stop fighting, followed by the sound of skin-on-skin contact that sounded like four blows.

Other deputies who had responded to the scene shortly after Chavez and Marquez, including Sergeant Curt Messerschmidt, Deputies Rafael Ruiz and Eric Gonzalez, all reported seeing Chavez strike McMillan three to four times in the face. Gonzalez stated that McMillan was trying to "fight his way back up" when Chavez began punching him. Gonzalez also described McMillan as kicking his legs wildly to the point where it was lifting Marquez up and down.

Zambrano made a second effort to pull McMillan's arm back, which McMillan resisted, but this time Gonzalez was able to handcuff the arm. Botten eventually gained control of McMillan's left arm and forced it behind McMillan's back, thus facilitating McMillan's handcuffing. After McMillan was handcuffed, Marquez applied a hobble, but the hobble was never linked to the handcuffs.[6] Botten disengaged from the pile once he heard Marquez announce that McMillan had been hobbled.[7]

After McMillan was restrained, he was propped up on his side. He had blood on his face, and there was blood on the floor near his face. McMillan was breathing, but Deputies Javier Gonzalez, Zambrano, Botten, and Ruiz all described McMillan's breathing as sounding like "snoring." Deputy [redacted] and his partner Deputy Frances Bui arrived after McMillan was restrained. [redacted] saw McMillan laying on the floor and described him as spitting blood as he was breathing. [redacted] requested Bui to retrieve a spit mask from their vehicle. Bui attempted to put the mask on McMillan, but the mask was too small and the attempt was aborted.

Los Angeles County Firefighter Paramedics Sergio Romo responded from Engine Company Five to the location and arrived within approximately five minutes of the call for service. When Romo arrived, McMillan was in full cardiac arrest. Romo administered CPR, but without success. McMillan was pronounced deceased on scene.

On September 15, 2016, an autopsy was performed by Dr. Odey C. Ukpo, M.D., M.S., of the Los Angeles County Coroner's Office. The report also documented evidence of neck compression, petechiae, facial plethora, and pulmonary edema (symptoms commonly associated with asphyxia). Alluding to the deputy's arm having been pinned beneath McMillan's neck, the report noted that there was evidence of neck compression. However, the medical examiner reasoned that based on the surveillance video this condition occurred over a period of less than two minutes, a timeframe that would not result in death. The report noted further that, "It is unclear of [sic] how much of a role natural disease (hypertensive cardiovascular disease, sleep apnea, schizoaffective disorder) and injury (neck compression) played in Mr. McMillan's death." McMillan's body temperature was measured as 96.1 degrees Fahrenheit approximately eight hours after death, indicative of hyperthermia prior to death. The medical examiner concluded that the cause of death was "cardiopulmonary arrest during law enforcement prone restraint due to schizoaffective disorder and

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[6] Serpa observed that the cuffs were never linked with the hobble.
[7] Marquez applied the hobble to McMillan's legs.

hypertensive cardiovascular disease." Toxicology testing detected no controlled substances in McMillan's system. The medical report contained a psychiatric consultation opining that McMillan's hyperactive activity, hyperthermia, and sudden cardiac collapse were consistent with lethal catatonia, or death due to psychiatric illness resulting in sudden cardiac death. The manner of death was undetermined.

LEGAL ANALYSIS

California law permits an officer to use reasonable force when making an arrest, preventing escape, or overcoming resistance of a person the officer believes has committed a crime. *Munoz v. City of Union City* (2004) 120 Cal.App.4th 1077, 1102; See also Penal Code § 835a. The right to use some degree of physical coercion, or the threat thereof, is deemed an inherent part of an officer's executing the responsibilities to protect the public interest. *Id.* at 1109. Sometimes this use of force may require "even greater use of force than might be [necessary] in the same circumstances required for self-defense." *Id.* at 1109. Evaluating an officer's use of force requires an assessment of whether or not the officer acted in an objectively reasonable manner given the facts and circumstances confronting the officer at the time. This standard "is highly deferential to the officer's need to protect himself and others." *Id.* at 1108.

An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146. In protecting oneself or another, a person may use all the force which that person believes reasonably necessary and that would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

In evaluating whether a police officer's use of force was reasonable, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations: "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20 20 vision of hindsight. . . . The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

An act causes death if the death is the direct, natural, and probable consequence of the act and the death would not have happened without the act. *CALCRIM No. 582.*

In the present case, deputies responded to a call of a carjacking involving violence and encountered McMillan who acted erratically. McMillan, a man of large stature, refused to follow the deputies' instructions as they attempted to take him into custody. Instead, he became combative. McMillan's combative behavior justified the deputies' use of force. Given the nature of the call and McMillan's violent resistance, we find Chavez' punches to have been reasonable. The deputies' combined use of force was an appropriate and commensurate response to McMillan's violent reaction. Based on

the medical examiner's report, it cannot be said with any certainty that a neck or head restraint caused McMillan's death. Even if it were posited that such a neck or head restraint played a role, it appears that Chavez' arm ended up under McMillan's neck as a result of how the bodies landed after the takedown, not as part of a conscious effort to subdue McMillan. Given the totality of the circumstances, the deputies' actions were not unreasonable and it would not be possible to prove that Chavez intentionally maintained a potentially fatal chokehold.

CONCLUSION

Based upon the foregoing analysis, we find that Deputies Ramon Chavez, Steven Marquez, Nathan Botten, and Alexander Zambrano acted lawfully and are not criminally responsible for McMillan's death. We are closing our file and will take no further action in this matter.